



Legislation Details (With Text)

File #: 21-1276 **Version:** 2 **Name:** DS - Just Cause for Termination of Tenancies
Type: Emergency Ordinance **Status:** Adopted
File created: 11/11/2021 **In control:** City Council
On agenda: 12/7/2021 **Final action:** 1/4/2022

Title: Recommendation to adopt ordinance amending the Long Beach Municipal Code by amending Chapter 8.102 to extend the prohibition on termination of certain lawful residential tenancies through February 28, 2022; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, read and adopt as read. (Citywide) (Emergency Ordinance No. ORD-21-0039)

Sponsors: Development Services

Indexes:

Code sections:

Attachments: 1. 120721-ORD-36sr&att.pdf, 2. 120721-ORD-36 PowerPoint.pdf, 3. 120721-ORD-36 Correspondence.pdf, 4. ORD-21-0039 (EMERG).pdf, 5. 010422-ORD-41att.pdf, 6. ORD-21-0039 (FINAL).pdf

Date	Ver.	Action By	Action	Result
1/4/2022	2	City Council	approve recommendation and adopt	Pass
12/7/2021	1	City Council	approve recommendation to declare Emergency Ordinance No. ORD- , read, and adopted as read and laid over to the next regular meeting of the City Council for final reading	Pass
12/7/2021	1	City Council	approve recommendation to declare an emergency to exist	Pass

Recommendation to adopt ordinance amending the Long Beach Municipal Code by amending Chapter 8.102 to extend the prohibition on termination of certain lawful residential tenancies through February 28, 2022; declaring the urgency thereof; and declaring that this ordinance shall take effect immediately, read and adopt as read. (Citywide) (Emergency Ordinance No. ORD-21-0039)

On July 13, 2021, the City Council approved an Ordinance establishing a temporary prohibition on substantial remodel lease termination notices and evictions, establishing a moratorium through December 31, 2021. The City Council also asked staff to: (1) explore the feasibility of, and costs associated with, establishing a Renovation Administration Program (RAP), and (2) meet with tenant and property owner representatives to discuss such a program and alternative options to address substantial remodel-related displacement.

This analysis is built upon a larger study conducted in 2018 when tenant and owner representatives joined City staff for a series of meetings to discuss potential tenant protection policies to address rising rents and tenant displacement. At that time a report on Tenant Assistance Policies was prepared, and the City Council adopted a Tenant Relocation Ordinance requiring property owners to pay relocation benefits to tenants that received a

notice of annual rent increase of at least 10 percent and to tenants in good standing that received a notice to vacate (Long Beach Municipal Code (LBMC) Chapter 8.97). The policy was rescinded by the City Council in connection with the State's adoption of Assembly Bill 1482 (AB 1482).

In order to address concerns that tenants were being unnecessarily displaced by substantial remodel projects, on February 18, 2020, the City Council passed an Ordinance (Just Cause Ordinance) generally adopting the just cause eviction provisions of AB 1482 (Attachment A) and providing more specificity with respect to conditions under which a tenancy could be terminated due to substantial remodeling of the subject unit.

Staff explored the feasibility of establishing a RAP that included an investigation of program requirements and a review of existing programs. The City of Los Angeles (LA) has implemented a Tenant Habitability Program (THP), which is a component of the Los Angeles Rent Stabilization Program. The THP was adopted by LA to facilitate landlord investment in primary renovation work without subjecting tenants to either untenable housing conditions during renovation work or forced permanent displacement. It is also designed to encourage landlords to extend the useful life of the rental housing stock through substantial renovation. In exchange, the landlord can recover a substantial portion of the investment through rent adjustments to rent-controlled apartments. The THP removes substantial remodel as a just cause for termination of tenancy and requires landlords to mitigate such temporary untenable conditions, either through actions to ensure that tenants can safely remain in place during construction or through the temporary relocation of tenants to alternative housing accommodations. The THP is regulated and administered by LA, which oversees the entire process of tenant notification, mitigation of renovation impacts, temporary tenant relocation and construction of the residential improvements. This includes a requirement that the landlord submit a Tenant Habitability Plan that must be reviewed, approved, and overseen by LA staff. The THP also includes the ability for the landlord or tenant to appeal LA's determination to a Hearing Officer in a process that can take up to 55 days or more. A summary with more details on the THP's process is attached (Attachment B). In addition to providing additional protections against tenant displacement and untenable housing conditions, a THP helps prevent vacancy de-control of rent controlled apartment units (loss of rent controlled units). Other cities that have studied or implemented a THP (or similar) include Oakland, Berkeley, West Hollywood, and Santa Monica. These cities all have a rent control Ordinance in place with rent stabilization staff and oversight boards to manage the various components of their rent control programs.

As requested, City staff met with tenant and property owner representatives to discuss the potential development of a RAP in Long Beach as well as alternative options to address substantial remodel displacement allowed by the Just Cause Ordinance. Placeworks Consulting was hired to assist with this effort. Tenant and property owner stakeholder meetings were held on August 25 and 26, 2021, respectively. A third meeting including both groups and the public was held on September 22, 2021. During the sessions, staff provided presentations and collected comments. In addition, a survey was made available on the Development Services website (Website) and its availability was published via social media

and shared during the stakeholder meetings. While the respective groups had different opinions on the subject, both agreed that “substantial remodel” should be more clearly defined. The presentations, meeting summaries, comments, and survey results are available on the Website at <https://longbeach.gov/lbds/hn/srtd/>. The meeting summaries, survey summary and written comments are attached (Attachment C - Summary Information from Stakeholder Events and Written Comments).

Tenants and tenant representatives have shared concerns regarding tenant displacement due to substantial remodel-related notices to vacate allowed by the Just Cause Ordinance. Tenant advocates contend that lower-income residents and working families are most affected by the perceived flaw in the Just Cause Ordinance. While these claims are likely valid, it is possible that the displacements are concentrated in certain buildings where property owners or investors are vacating entire buildings in order to substantially increase rents. City staff have no solid data to determine that the substantial remodel just-cause for termination provision is being widely used to systematically displace tenants. The City of Long Beach (City) is not a party to and has no database of evictions. Reporting by CalMatters shows 221 Sheriff-enforced evictions since mid-2020 but detailed information on the cause of these evictions is not available. During the COVID-19 period, 879 building permits were issued that appear to be eligible as “substantial remodels” of multifamily properties, but information is not available to determine which permits may have led to evictions or displacements. The COVID-19 period is not statistically different from 2019 or 2018. This data does not clearly show that the evictions were a result of a substantial remodel just cause termination or that the permits issued resulted in a substantial remodel just cause displacement. Nevertheless, the substantial remodel provision of the Just Cause Ordinance may create a negative impact on lower-income tenants when landlords or investors are using the provision to vacate units to substantially increase rents. The immediate past data does not and cannot show how the substantial remodel process would impact tenants and landlords in the future as COVID-19 related moratoriums expire and the rental market and eviction process enters a new “normal.” The City Council may wish to consider modifications to the Just Cause Ordinance to mitigate any impact based on past occurrences but also the potential for future impacts.

It is also important to note that Long Beach has an older housing supply with 82 percent of the City’s housing units being built before 1980. Housing typically requires major renovations at year 30, and then more frequently for buildings over 50-years old. Seventy-one percent of the City’s housing units are more than 50-years old. In order to maintain a safe and healthy housing stock, a significant number of units will likely need significant upgrades in the coming years. It is necessary to conveniently allow for these upgrades without unnecessarily permanently displacing residents.

Potential Solutions

City staff have reviewed the THP implemented by LA. The cost for the City to implement and administer such a program is estimated at \$2 million dollars annually, and it is expected to take at least one year or longer to develop the program and hire staff. Staff considered other

potential changes to the Just Cause Ordinance that would address the issue much faster than the development of a costly new administrative division tasked to mediate the renovation of rental housing units. Stakeholder and community input were considered when preparing the following options for the City Council to consider.

Option One

Create and implement a THP similar to the Los Angeles model. Such a plan would create a program requiring staff oversight of residential rehabilitation projects that would be subject to a THP submittal, review, and approval at a cost estimated at \$2 million annually. The City would need to allocate funding from the General Fund Group to cover these costs on an annual basis, and it will take a minimum of one-year to get the program up and running. Other funding sources available to the Department of Development Services cannot be used because they are restricted to specific purposes, like Development Services Fund Group fee revenue, which must be used to provide the services for which the fees are paid, or the Housing Development Fund Group revenue, which may only be used to create newly affordable units or for efforts that meet specific grant requirements. Future costs could be passed on to property owners and would likely trickle down to tenants, and would need further study. It is important to understand that costs in Long Beach would be higher than in Los Angeles or other jurisdictions because there is no existing staff infrastructure for intervention between landlords and tenants as currently exists in cities with rent stabilization programs in place. Additionally, necessary property repairs may be deferred by owners possibly resulting in increased substandard housing conditions.

Option Two

Implement the following revisions to improve the Just Cause Ordinance:

1. Revise the definition of substantial remodel to include work that would require a tenant to vacate for at least 60 days as opposed to the current 30 days;
2. Revise the definition of substantial remodel to more clearly define what does and does not qualify as a substantial remodel;
3. Establish a civil fine of up to \$15,000 payable by a landlord to a tenant when a landlord has been found by a civil court to have intentionally violated the City's Just Cause Ordinance when issuing an invalid termination notice based upon the substantial remodel just cause termination of tenancy provision;
4. Revise the Just Cause Ordinance to require property owners to notify the City when applying the substantial remodel just cause for termination provision in conjunction with related construction work. Require staff to track data on this type of displacement and deploy housing navigators to assist tenants who are displaced; and,
5. Revise the Just Cause Ordinance to require a 90-day notice to vacate for any no-fault

just cause termination of tenancy.

Option Three

Modify the Just Cause Ordinance to increase permanent relocation benefits to \$4,500 per household from the current AB 1482 relocation requirement of one-month's rent equivalent.

Upon City Council approval, the City Attorney will prepare a draft Ordinance to effectuate the necessary changes to the Just Cause Ordinance. Staff recommend adoption of Option Two or some combination of Options Two and Three. These adjustments to the Just Cause Ordinance could be implemented immediately and could provide substantial protections to impacted tenants at lower cost to both the City and landlords. The compensation adjustment in Option 3 was recommended to the City Council as part of the prior study on April 2, 2019 (Attachment D), however that level of compensation was not approved at that time. The City Council may wish to consider the \$4,500 level as more commensurate with the true cost of a tenant relocating and submitting first and last month's rent plus security deposit at a new residence. The City Council would need to weigh this benefit against the increased cost to landlords.

Because the current prohibition on substantial remodel notices and evictions (LBMC Chapter 8.102) expires by its own terms on December 31, 2021, and there are no further scheduled City Council meetings prior to that date, if in the very likely event direction given by the City Council requires future City Council action (including Ordinances), then such direction cannot be implemented prior to the expiration of the moratorium. City staff suggest extending the existing prohibition through February 28, 2022, it being understood that the prohibition can be terminated by the City Council prior to that date if the City Council has taken final action to address the issues described in this letter.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on Tuesday, October 26, 2021 and Budget Operations and Development Officer Rhutu Amin Gharib on November 11, 2021.

City Council action is requested on December 7, 2021, to allow program changes to be made prior to December 31, 2021, when the current temporary prohibition on substantial remodel lease termination notices and evictions expire.

Approval of the recommended Option Two would have no fiscal or staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. Option Three would have the same fiscal and staffing impacts as Option Two. If Option One is selected, the staffing impact would be considerably beyond the budgeted scope of duties for existing staff. An estimated annual \$2 million in General Fund Group appropriation would be necessary to implement a structural RAP. There is no local job impact associated with this recommendation.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY AMENDING CHAPTER 8.102 TO EXTEND THE PROHIBITION ON TERMINATION OF CERTAIN LAWFUL RESIDENTIAL TENANCIES THROUGH FEBRUARY 28, 2022; DECLARING THE URGENCY THEREOF; AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:

THOMAS B. MODICA
CITY MANAGER